U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

identifying data deleted to prevent clearly unwarranted invasion of personal privacy

PUBLIC COPY

U.S. Citizenship and Immigration Services

B5

[redacted]

DATE: MAR 2 2 2012 OFFICE: TEXAS SERVICE CENTER [redacted]

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of $630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew
Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a neurologist. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On the Form I-290B Notice of Appeal, counsel checked a box reading "My brief and/or additional evidence is attached." Counsel states:

> The record reflects through [the petitioner's] leading roles at prominent medical institutions along with her history of original and pioneering publications and significant contributions to the field of neurology that [the petitioner] has demonstrated that (1) her work has had substantial intrinsic merit; (2) the impact of her work has spread beyond his hospital community and had a significant national influence in improving healthcare; and (3) [the petitioner's] abilities are extraordinary and stand above her peers, such that a waiver of the labor certification process would be in the national interest.

Counsel does not elaborate as to the nature of the claimed "leading roles" and "significant contributions." The director, in the denial notice, had questioned earlier, similar claims by counsel. Counsel cannot rebut the director's findings simply by repeating the vague assertion that the petitioner's work has been important.

In a separate statement accompanying the appeal form, counsel asserts "clear evidence was submitted showing that in particular [the petitioner] has made great contributions to the field through both her research work as well as clinical abilities, both well attested to by both her peers with whom she has worked as well as independent testimonials." The director considered and quoted from the witness statements in the denial notice, but did not find them sufficient to establish eligibility. Counsel does not address the director's concerns, instead simply commenting on the letters' presence in the record.

In sum, counsel does not explain how the director failed to take the petitioner's previous evidence into consideration. Counsel does not allege any specific factual or legal errors or other deficiencies in the director's decision. Counsel, in effect, merely asserts that the director should have approved the petition, which is not a sufficient basis for a substantive appeal.

Counsel also equates denial of the national interest waiver with the petitioner's immediate departure from the United States, without explaining why one necessarily implies the other. (The AAO notes that, less than two months after the petitioner filed this appeal, an employer applied for a labor

certification on the petitioner's behalf. The Department of Labor approved the labor certification, and USCIS approved a subsequent immigrant petition based on that labor certification.)

Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.